

**INDIVIDUAL MOTION PRACTICES OF
JUDGE NINA GERSHON**

United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201
Telephone: 718-613-2650 - *Chambers*
Contact: Victor Joe, *Case Manager*
Telephone: 718-613-2655
Hours: 8:30 AM - 5 PM (Monday - Friday)
Motions Returnable: Set by the Court
Revised as of February 3, 2006

Unless otherwise ordered by the Judge in a specific case, matters before the Judge shall be conducted in accordance with the following practices:

1. Electronic Case Filing (ECF) For Civil and Criminal Cases.

A. *All documents* in civil and criminal actions shall be filed electronically.

B. *Orders* will be posted electronically, and parties not registered on ECF will not receive them.

C. *Hard copies* of all papers filed electronically, including motions, exhibits, letters and stipulations, must be provided to Chambers. All such papers must be clearly marked "Courtesy Copy," and "Original Filed by ECF." The document number that ECF assigns to the document should be indicated on the lower right corner of the courtesy copy.

D. *Parties filing voluminous and non-text exhibits* that are impracticable to file electronically, should, if possible, submit a Portable Document Format (PDF) or WordPerfect version on a compact disk to the Clerk's office (labeled original) and Chambers (labeled courtesy copy). For exhibits that cannot be electronically filed, or submitted on PDF or WordPerfect, submit the "Original" to Clerk's Office for filing, and a "Courtesy Copy" to chambers. The motion papers should indicate in what manner the exhibits have been filed.

E. *Pro se parties* are automatically exempt from mandatory electronic filing. However, parties represented by counsel must file documents electronically, even in Pro Se cases.

F. *Request* by attorneys for an exemption to the mandatory policy will be considered for good cause hardship reason only, and will be reviewed on an individual basis by the assigned United States Magistrate Judge. However, no request will be granted until the attorney has sought ECF training. Questions regarding ECF filing or training should be directed to Terry Vaughn or Roseann Guzzi at (718) 613-2331 or 2617

2. Communications With Chambers

A. *Letters.* Except as provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

B. *Telephone Calls.* Except as provided in Paragraph 1(D) below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at the number listed above.

C. *Faxes.* Faxes to chambers are not permitted unless prior authorization is obtained.

D. *Docketing, Scheduling, and Calendar Matters.* For docketing, scheduling and calendar matters, call the contact listed above during the hours specified.

E. *Requests for Adjournments or Extension of Time.* All requests for adjournments or extensions of time must state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling order must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

3. Motions

A. *Pre-Motion Conferences in Civil Cases.* For discovery motions, follow Local Civil Rules 37.3 and 6.4. For motions other than discovery motions, in all cases where the parties are represented by counsel and in other than habeas corpus/prisoner petitions and Social Security and Bankruptcy appeals, a pre-motion conference with the court is required before making any dispositive motion, or motion for a change of venue.

To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three(3) pages in length setting forth the basis for the anticipated motion. All parties so served must serve and file a letter response, not to exceed three (3) pages within seven (7) days from service of the notification letter. Service of the letter by the moving party within the time requirements of Rule 12 of the Fed. R. Civ. P. shall constitute timely service of a motion made pursuant to Fed. R. Civ. P. 12 (b).

B. *Courtesy Copies.* Courtesy copies of all motion papers, marked as such, should be submitted for chambers.

C. *Memoranda of Law.* The Court expects counsel to exercise their professional judgment as to the length of briefs and may impose limits if that expectation is not met.

D. *Filing of Motion Papers.* No motion papers shall be filed until the motion has been fully briefed. The notice of motion and all supporting papers are to be served on the other parties along with a cover letter setting forth whom the movant represents and the papers being served. A copy of the cover letter only is to be mailed to the assigned district judge and the magistrate judge at this time.

Subject to court approval, the parties are to set up their own briefing schedule. No changes in the approved schedule may be made without court approval. Approval may be given at the pre-motion conference or by subsequent letter. No party is to serve any motion papers prior to obtaining court approval for the schedule.

The original moving party shall be responsible for filing all motion papers. Such party is further obligated to furnish to chambers a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to the assigned magistrate judge and to opposing counsel.

This procedure will continue under the ECF system. Parties should exchange electronic PDF copies of their motion papers in accordance with the briefing schedule. The original moving party shall be responsible for filing the full set of papers on ECF and submitting courtesy copies to chambers.

E. *Oral Argument on Motions.* Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

4. *Pretrial Procedures*

A. *Joint Pretrial Orders in Civil Cases.* Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the court for its approval a joint pretrial order, which shall include the following:

i. The full caption of the action.

ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.

iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.

iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.

v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.

vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented.)

vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.

viii. A list of names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.

ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

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1) A statement of stipulated facts, if any;

2) A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Meritless objections based on these grounds may result in the imposition of sanctions. Only exhibits listed will be received in evidence except for good cause shown; and

3) All exhibits must be premarked for the trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

i. On the Thursday before trial in jury cases, requests to charge and proposed voir dire questions. Requests to charge should be limited to the elements of the claims, the damages sought and defenses. General instructions will be prepared by the Court. When feasible, proposed jury charges should also be submitted on a compact disk in either a WordPerfect or PDF format;

ii. By claim, a detailed statement regarding damages and other relief sought;

iii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;

iv. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and

v. In any case where such party believes it would be useful, a pretrial memorandum.